NOTES OF CASES.

PLEADING AND PRACTICE—WHEN ADMINISTRATOR MAY SUE IN FORMA PAUPERIS FOR NEGLIGENT KILLING OF HIS INTESTATE—VA. CODE 1904, SECS. 3538-46.—TO permit an administrator to bring an action *in forma pauperis* for the alleged negligent killing of his intestate, it is held, in *Christian* v. *Atlantic & N. C. R. Co.* (N. C.), 68 L. R. A. 418, that he need not show personal inability to give the required bond, or make the necessary deposit, but that it is sufficient if he shows such inability on behalf of the estate and those for whose benefit the suit is really brought. The other cases on the right of executor or administrator to sue, defend, or appeal *in forma pauperis* are considered in a note to this case. The same rule would probably be applied under our statute (Va. Code 1904, Sec. 3538) especially since Sec. 3546 makes the party for whom the suit is brought alone liable for costs.

WILLS—INCORPORATION OF EXTRINSIC DOCUMENT—WM. J. BRYAN'S CELEBRATED CASE.—That the contents of an extrinsic document cannot be incorporated into a will by a clause stating that a sum was given in trust "for the purpose set forth in the sealed letter, which will be found with the will," is declared in Bryan's Appeal (Conn.), 68 L. R. A. 353, where the will contains no clear, explicit, and unambiguous reference to a specific document as the one intended. The other authorities on incorporation of extrinsic document into will are considered in a note to this case.

JURORS—COMPETENCY —Jurors who have rendered a verdict of guilty in a trial of one person for bribery, are held in *People* v. *Mol* (Mich.), 68 L. R. A. 871, not to be impartial within the constitutional requirement, so as to be competent to serve at the trial of another person indicted for the same offense, and whose guilt depends upon practically the same evidence as that offered at the other trial, and the bearing of which upon his guilt must have been considered at that trial. The other cases as to competency of jurors who have served in the same or a similar case are collated in a note to this case.

TRESPASSERS AND LICENSEES ON A RAILROAD RIGHT OF WAY—DUTY OF RAILROAD TOWARDS—It is held in a great many jurisdictions that there is little, if any, difference between the duty of a railroad toward a trespasser and the degree of care owed to a mere licensee on its right of way, and that its sole duty in either case is to refrain from active misconduct or wanton and wilful injury. *Meneo* v. *Cent. R. Co.*, 84 N. Y. Supp. 448; *Wencker* v. *Mo. K. & T. R. Co.*, 169 Mo. 592, 70 S. W. 145; *Ill. Cent. R. Co.* v. *Eicher*, 202 *Ill.*—N. E. 376.

In *Blankenship* v. *C. & O. Ry. Co.*, 94 Va. 449, 455, Judge Buchanan says that there seems to be a recognized distinction between the degree of